

Lawyers: Host of loopholes being used to scam investors



NATION

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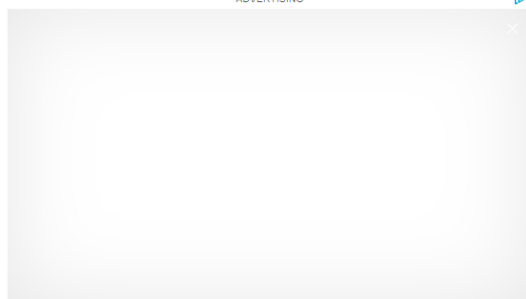
PETALING JAYA: Lawyers say unscrupulous companies have a host of loopholes to scam naïve investors.

For instance, companies may structure contracts as an investment rather than a sale and purchase, meaning customers have to agree that the investment can fail, leaving them with nothing in hand, said lawyer Yudistra Darma Dorai.

He added that a carefully phrased agreement could remove any liability on the company's side in the event the deal went bust.

Asked if victims could sue the company without filing a police report, he said they were entitled to do so even if the accused had not been brought to trial, or acquitted and the criminal court had not cleared the company of any wrongdoing.

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Yudistra said under the Companies Act, directors could hide behind the facade of their companies as only the company could be sued and not the directors.

"If these are fly-by-night companies, they'll move the cash to foreign accounts. So, if they get sued and are forced to wind up the company, there would be no money to return," he said.

He said scam victims' lawyers however were learning to take advantage of a clause in the Companies Act which allowed the court to hold directors and officers of the company liable for the company's debt, if they attempted to siphon funds while in the midst of litigation.



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Lawyer Muhammad Akram Abdul Aziz said another issue victims faced in shady "investments" was that the deals were illegal, rendering any agreement entered between parties to be deemed void from the beginning.

He said this made it difficult to sue for damages based on contract, and even if the victims succeed in their claims, the court would usually allow only those pertaining to the capital without any award on profit promised by the scheme.

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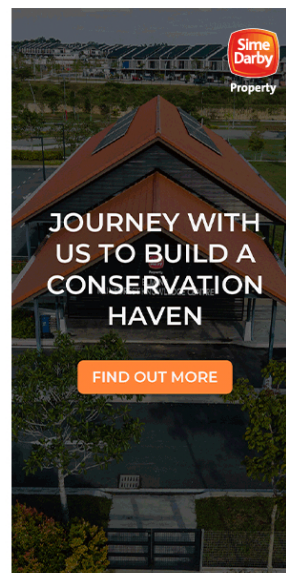
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